

REMARKS

II. Claim Amendments

Claims 1-8, 10-18, 20, 21, 23-25 and 27-39 are currently pending. Claims 8 and 38 are amended.

A. Provisional Rejection for obviousness-type double patenting

The Office Action asserts a rejection of claims 1-8, 10-18, 20, 21, 23-25 and 27-39 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 and 13-18 of co-pending U.S. Patent Application No. 10/893754. Applicants note that in accordance with MPEP 804.1B, a provisional double patenting rejection is only a warning and although "*the merits of [a] provisional [double patenting] rejection can be addressed by both the applicant and the examiner without waiting for the first patent to issue*" addressing such issue at this stage is not required. Therefore, the Applicants wish to defer their response until the Examiner can convert such provisional rejection into a non-provisional rejection. Withdrawal of this rejection is therefore respectfully solicited.

B. 35 U.S.C. § 112, second paragraph rejection

Claims 8 and 38 stand rejected under 35 U.S.C. § 112 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process.

The Applicants have amended claim 8 as follows:

A process for polymerization of alpha olefins in a slurry or in a gas phase, comprising the step of contacting the monomers in the presence of ~~wherein the polymerization is catalyzed by the heterogeneous catalytic composition of claim 1.~~

The Applicants have amended claim 38 as follows:

A process for polymerization of alpha olefins in a slurry or in a gas phase, comprising the step of contacting the monomers in the presence of ~~wherein the polymerization is catalyzed by the heterogeneous catalyst system~~ catalytic composition of Claim 21.

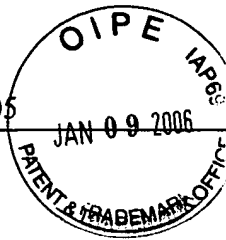
With respect to the above amendments to claims 8 and 21, the Applicants request reconsideration of the 112, second paragraph rejection.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Allowance of the application at an early date is solicited.

Applicant reserves the right to seek protection for any unclaimed subject matter either subsequently in the prosecution of the present case or in a divisional or continuation application.

The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR §1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed, and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.



Respectfully submitted,

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendments, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

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(Date of Transmission)

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mavis S. Gallenson".

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